

REMARKS

Applicants have amended claims 1 and 2, added new claim 32, and cancelled claims 8, 9 and 14 without prejudice. Claims 21-31 were previously withdrawn from consideration. Thus, claims 1-6, 10-13, 15-20, and 32 are presented for examination.

**Drawings**

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a) for failure to show every feature of the invention specified in the claims. In particular, with regard to claim 12, the Examiner stated that the feature "the longitudinal side of the closure is attached to the bag body only outboard of the mating bands" must be shown or canceled from the claim. Applicants submit that this feature is shown in at least Figs. 4 and 18 of Applicants' application. For example, with regard to the embodiment of Fig. 4, Applicants noted that "the outer free edge of closure strip 132 is sealed to back face panel 16 across the entire length of the bag, forming seal 40 that seals the bag for storage, shipment, and retail display" (Page 8, line 28 – page 9, line 1). As shown in Fig. 4, seal 40 is positioned outboard of the mating bands of closure strip 132. As another example, while describing the embodiment of Fig. 18, Applicants noted that loop strip 154 is only attached along its outer edge by a single continuous heat seal 120, leaving the edge of the loop strip facing into the bag tube free as shown (Page 14, line 26-28). Fig. 18 shows heat seal 120, which attaches one side of the closure to the bag body, as being disposed outboard of the mating bands of the closure. As is evident from these examples, "the longitudinal side of the closure" can refer to one portion of a folded closure or to one strip (e.g., a hook strip or a loop strip) of a two-piece closure. In view of the discussion above, Applicants submit that the above-noted feature of Applicants claims was adequately shown in the figures, and therefore request reconsideration and withdrawal of this objection.

**Claim Rejections – 35 U.S.C. 112**

Claims 12-14 and 18 were rejected under 35 U.S.C. 112, ¶ 2 as being indefinite. With regard to claim 12, the Examiner contended that the structure of the closure has not been defined

to warrant the language "one longitudinal side of the closure." When claim 12 is read in view of the specification, as required, the meaning of the above-quoted feature of claim 12 is clear. As discussed above, for example, the feature "one longitudinal side of the closure" can refer to one portion of a folded closure or to one strip (e.g., a hook strip or a loop strip) of a two-piece closure. The Examiner also noted that "the mating bands" lacks antecedence in the claim from which it depends. Applicants submit that, in view of the amendment made to claim 1, this feature of claim 12 has proper antecedent basis. Applicants, therefore, submit that claim 12 is in allowable form.

With regard to claim 13, the Examiner noted that claim 13 depends from claim 12, which was rejected under 35 U.S.C. 112, ¶ 2. As discussed above, however, Applicants submit that claim 12 is in allowable form, and thus submit that claim 13 is in allowable form.

With respect to claim 14, the Examiner noted that "the fill opening" lacks antecedence. As noted above, Applicants have cancelled claim 14 without prejudice.

With regard to claim 18, the Examiner noted that "the fill opening" lacks antecedence in the claim from which it depends. Applicants have amended claim 18 and submit that claim 18, as amended, is in allowable form.

In view of the foregoing discussion, Applicants request reconsideration and withdrawal of these rejections.

### **Claim Rejections – 35 U.S.C. 102**

Claims 1-8, 12 and 13 have been rejected under 35 U.S.C. § 102(b) as anticipated by Yano (Japanese Patent No. 3-240651). But Yano fails to disclose or suggest mating bands of hooks and hook-engageable fibers, as recited in Applicant's claims. Instead, Yano discloses a bag with a lateral gusset formed by a synthetic resin closure 6 including internal and external pawls (See, e.g., Abstract; Fig. 1). Additionally, Yano fails to disclose a gusset folding region and a corresponding adjacent edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as required by Applicant's claims. Rather, Yano discloses a

closure that is disposed between a wide projecting lateral piece 9 and the bag body 2a (See, e.g., Fig. 1). Therefore, Applicants request reconsideration and withdrawal of this rejection.

Claims 1-3, 5, 6, 8, 14, 15, 19 and 20 have been rejected under 35 U.S.C. § 102(b) as anticipated by Watanabe (Japanese Patent No. 5-147661). However, Watanabe fails to disclose or suggest an expandable gusset between the broad face panels, as recited in Applicant's claims. As shown in Watanabe's Fig 1, for example, Watanabe discloses a gusset-type packaging bag 1, consisting of a bag main body 2 and an opening 4, defined at an end of the main body. The gusset upper side folding region 3 is adhered to the main body 2 to form a small bag 10 and both edge parts 7,7 of the main body of the bag 2 are adhered by welding (Watanabe, para. 0008). Thus, the gusset folding region in Watanabe is adhered to the main body and does not expand to form an expandable gusset region but is used to form an external bag extension. In addition, Watanabe fails to disclose or suggest mating bands of hooks and hook-engageable fibers and a gusset folding region and a corresponding adjacent edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as recited in Applicants' claims. Instead, Yano discloses a bag 1 having an opening 4 and male and female fasteners formed on the inside of the opening 4 (See, e.g., Watanabe, para. 0008; Fig. 1).

In view of the discussion above, Applicants request reconsideration and withdrawal of this rejection.

Claims 1, 5, 8, 17, 19 and 20 have been rejected under 35 U.S.C. § 102(e) as anticipated by Athans (WIPO Publication No. 01/17864). But, Athans fails to disclose or suggest mating bands of hooks and hook-engageable fibers and a gusset folding region and a corresponding adjacent edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as recited in Applicant's claims. As shown in Athan's Figs. 1 and 2, for example, Athans discloses a package having an opening 22 that extends along the top portion of the package, and a rib and groove type fastener 22 (See, e.g., Athans, page 3, line 19 – page 4, line 15). Fastener 22, as shown in Fig. 2, is disposed outboard of the folded region of top gusset 44. Thus, Athan's fastener 22 is not disposed between the folding region of gusset 44 and a

corresponding adjacent edge region of one of his broad face bag panels. For at least the reasons discussed above, Applicants request reconsideration and withdrawal of this rejection.

Claims 1-3, 5, 6, 8, 9, 14, 19 and 20 have been rejected under 35 U.S.C. § 102(b) as anticipated by Price (U.S. Pat. No. 6,213,641). Yet, Price fails to disclose or suggest a gusset folding region and a corresponding edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as recited in Applicant's claims. Instead, Price discloses a thermoplastic bag 10 including a reclosable fastener that is offset such that it extends along the Price's reclosable fastener closure 14 that is positioned along the width of bag 10 proximate to the top of bag 10 (See, e.g., col. 3, lines 60-65). Closure 14, as shown in Fig. 3, is positioned outboard of his inwardly folded pleat 13. Thus, Price's pleat 13 does not overlap closure 14. For at least the reasons discussed above, Applicants request reconsideration and withdrawal of this rejection.

Claims 1-8, 12 and 13 have been rejected under 35 U.S.C. § 102(e) as anticipated by Schmidt (U.S. Pat. No. 6,481,183). But, Schmidt fails to disclose or suggest a gusset folding region and a corresponding edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as recited in Applicant's claims. Rather, Schmidt discloses a vertical form fill seal, stand up bag with a zipper closure (See, e.g., Schmidt, col. 6, lines 66-67). The zipper closure is described as being in the middle of a gusseted side of the bag, in the middle of a non-gusseted side of the bag, or along an edge of the bag. There is no disclosure or suggestion that the closure can be provided between a folded region of a gusset and a broad face panel of the bag. Therefore, Applicants request reconsideration and withdrawal of this rejection.

#### **Claim Rejections – 35 U.S.C. 103(a)**

Claims 9-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Yano, Watanabe, Athans or Schmidt in combination with Price. The Examiner acknowledged that Yano, Watanabe, Athans, and Schmidt fail to disclose mating bands of hooks and hook-engageable fibers, but contended that mating bands of hooks and hook-engageable fibers and the types of closures described in Yano, Watanabe, Athans, and Schmidt (i.e., rib and groove type

closures) are “art-recognized equivalents.” The Examiner relied on Price to support his contention that mating bands of hooks and hook-engageable fibers and rib and groove type closures are “art-recognized equivalents.”

Even if mating bands of hooks and hook-engageable fibers and rib and groove type closures were “art-recognized equivalents,” which Applicants do not concede, Price fails to disclose or suggest each of those limitations noted to be lacking in Yano, Watanabe, Athans and Schmidt. For example, Price fails to disclose or suggest a gusset folding region and a corresponding edge region of a broad face panel overlapping mating bands of hooks and hook-engageable fibers, as recited in Applicants’ claims. Thus, Yano, Watanabe, Athans, Schmidt, and Price, taken alone and in combination, fail to disclose or suggest each and every feature of Applicants’ claims.

Moreover, mating bands of hooks and hook-engageable fibers are not, in the context of Applicants’ invention, equivalent to rib and groove type closures. Mating bands of hooks and hook-engageable fibers are structurally and functionally dissimilar to rib and groove type closures. Rib and groove type fasteners include male and female elements that are structured and arranged to require relatively precise alignment to be secured to one another. With such rib and groove type fasteners, pressure is generally applied to the male and female profiles along the length of the fastener in order to secure the male profile within the female profile. Opening of rib and groove type fasteners typically requires a relatively high initial peel force to partially separate the male and female profiles, whereupon a much smaller linear propagation force is required to separate the remainder of the male and female profiles from one another.

In contrast, mating bands of hooks and hook-engageable fibers need not be precisely aligned for closure. In addition, only a relatively small force need be applied to engage mating bands of hooks and hook-engageable fibers, and mating bands of hooks and hook-engageable fibers generally require a relatively constant peel force along the length of the closure to open. In light of the above-noted differences in structure and function, mating bands of hooks and hook-engageable fibers and rib and groove type closures are not “equivalents” in the context of Applicants’ invention.

Applicants have discovered that many of the above-noted features of mating bands of hooks and hook-engageable fibers, which differ substantially from rib and groove type fasteners, provide marked advantages when used with recloseable, gusseted bags. For example, because mating bands of hooks and hook-engageable fibers enable bags to be closed with relatively little applied pressure, they can be particularly advantageous when used with bags containing delicate contents. Rather than requiring that pressure be applied to a front and rear surface of the fastener strip, as is generally required with rib and groove type fasteners, bags including mating bands of hooks and hook-engageable fibers can be closed with a relatively light touch to one or both of the bands. Consequently, the delicate contents can be more easily preserved. Similarly, mating bands of hooks and hook-engageable fibers can enable bags to be closed with little effort aligning the bands because the bands need only overlap one another to be closed, they need not be precisely aligned. This can be particularly beneficial for bags with flexible walls that tend to shift while the bag is being opened and closed. Moreover, Applicants have realized that, due at least in part to the lack of precise alignment required to engage mating bands of hooks and hook-engageable fibers, mating bands of hooks and hook-engageable fibers can be disposed adjacent folded regions of the gusseted bag, which include multiple layers, and still allow for easy opening and closure of the bag.

In view of the discussion above, Applicants request reconsideration and withdrawal of this rejection.

Claim 16 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe. However, as discussed above, Watanabe fails to disclose or suggest each and every feature of Applicants' claims. Therefore, Applicants request reconsideration and withdrawal of this rejection.

Enclosed is a \$120 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

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Serial No. : 10/662,266  
Filed : September 15, 2003  
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Attorney's Docket No.: 05918-212001 / 4470

Respectfully submitted,

Date: July 19, 2006

  
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